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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER-2800

Application of: Richard M. Oraziotti

Group Art Unit: 3743

Application No.: 09/865,508

Examiner: Dougherty, T. M.

Filed: May 29, 2001

Attorney Dkt No.: 618-940

For: CHILD-RESISTANT PIEZOELECTRIC
LIGHTER

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RESPONSE TO RESTRICTION REQUIREMENT

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GROUP 3700

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Office Action mailed November 25, 2002, in which the above-captioned application was examined for restriction purposes only. Applicants respectfully request consideration and entry of the following remarks and provisional election in the file of the application.

REMARKS

On page 2 of the Office Action, the Examiner required that this application be restricted to one of four inventions: Group I, claims 1-15, drawn to a piezoelectric ignition device; Group II, claims 16-21, drawn to a lighter; Group III, claims 22-27 drawn to a lighter; or Group IV, claim 28 drawn to a "piezoelectric igniter." Applicants provisionally elect Group I, claims 1-15, with traverse.

However, Applicants respectfully submit that, because a search can be made to encompass all of the pending claims of Groups I, II, III and IV without a serious burden, the examiner must examine the entire application on the merits. Manual of Patent Examining Procedure (MPEP) § 803 (8th ed. Aug. 2001). Thus, it is understood that the restriction requirement should be withdrawn.

Alternatively, Applicants respectfully submit that because Groups I and IV, claims 1-15 and 28 respectively, are not directed to independent, unrelated inventions, the restriction requirement should be withdrawn. The Examiner stated that the inventions of

Group I and Group IV were unrelated because "Group IV has a biasing element associated with the plexor, which feature is not discussed in the Group I claims," and therefore "the different inventions have different modes of operation." *See* Office Action, 2-3, (Nov. 15, 2002). Citing MPEP sections 806.04 and 806.01, the Examiner defined inventions as being unrelated, "if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects." *See id.* Applicants respectfully submit that the inventions as claimed in Groups I and IV, claims 1-15 and 28, respectively, are not unrelated because the inventions as disclosed are capable of use together and they have similar modes of operation, function, and effect. Both independent claims 1 and 28 are directed to a "piezoelectric ignition mechanism," having the same mode of operation in which each comprises a plexor, "associated with the assembly" and "capable of being driven toward the piezoelectric element with sufficient force to impact the piezoelectric element" for the similar function and effect, "to produce a spark." The presence or absence of the single "biasing element" does not render the inventions as piezoelectric ignition mechanisms unrelated. For the above reasons the inventions of Group I and of Group IV are not unrelated, and applicants respectfully submit that the restriction requirement has been traversed and should be withdrawn.

No fee is believed due for this submission. However, should any fees be due for this submission or to avoid abandonment of the application, please charge such fees to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

Date: December 20, 2002

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